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June 27, 2002

National Highway Traffic Safety Administration
Docket Management Facility
400 Seventh Street, S.W.
Nassif Building, Room PL-401
Washington, DC 20590

Subject: **Docket No. NHTSA-02-12150-7**
Confidential Business Information

Dear Sirs:

Meritor WABCO Vehicle Control Systems is a joint venture company of Arvin Meritor and WABCO Vehicle Control Systems, a division of American Standard Inc. Meritor WABCO is engaged in the sale of Antilock Braking Systems (ABS), suspension control systems and various other pneumatic and hydraulic components to North American original equipment manufacturers of commercial tractors, trucks, buses, specialty vehicles, trailers and dollies.

Meritor WABCO appreciates the opportunity to submit the following comments regarding the Notice of Proposed Rulemaking on the submission of confidential business information to the National Highway Traffic Safety Administration.

In reviewing the Notice of Proposed Rulemaking, Meritor WABCO is supportive of the agency's desire to simplify and clarify the process of requesting confidential treatment of sensitive information supplied to NHTSA. The proposed changes clearly specify the correct procedure to be used to administer the request and the criteria that will be utilized by the agency to judge if confidentiality will be granted. The question and answer format contained in the NPRM was found to be a very effective way of highlighting major issues and clearly communicating the resolution.

Meritor WABCO is fully supportive of the proposed five standards necessary for the agency to afford confidential treatment of submitted information. The fourth criteria contained in the proposal for judgment of confidentiality (Section 512.15(d)) states that confidentiality may be afforded if:

"The information was provided to NHTSA voluntarily and the information would customarily not be released to the public by the person from whom it was obtained;"

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This is the basis for Meritor WABCO's main concern with the Notice of Proposed Rulemaking. Meritor WABCO customarily would not publicly release the early warning information that NHSTA is considering for submission. Thus, we strongly believe all information provided to NHTSA under the early warning reporting requirements of the Tread Act must be granted confidential status by the agency. Examples of this type of early warning information, contained in Appendix B of the proposal, which we believe must be afforded confidential treatment, include:

- 1) Consumer complaints and related documents;
- 2) Reports and data related to property damage; and
- 3) Reports and data related to warranty claims.

This raw, oftentimes unsubstantiated, information is not customarily shared with the public by Meritor WABCO because we believe it can result in unnecessary confusion in the marketplace and potentially cause competitive harm to our organization. Many of the products sold by Meritor WABCO are actually specified by the end user at the time of vehicle purchase. If the purchasing public erroneously believes a problem exists with one of our products based on the release of potentially inaccurate, early warning warranty information, our competitiveness in the marketplace could be unnecessarily compromised.

Reviewing Subsection (C) DISCLOSURE, contained in Section 3 of the Tread Act (Reporting Requirements) indicates to Meritor WABCO that Congress mandated confidential treatment of all submitted early warning information unless public disclosure will assist the agency in an investigation. Section (C) DISCLOSURE reads:

"None of the information collected pursuant to the final rule promulgated under paragraph (1) shall be disclosed pursuant to section 30167(b) unless the Secretary determines the disclosure of such information will assist in carrying out sections 30117(b) and 30118 through 30121."

We do not believe publicly releasing raw data potentially consisting of unsubstantiated consumer complaints, property damage reports and warranty claims will routinely have a positive affect on an agency investigation.

It is very difficult to draw factual conclusions on product integrity and possible product defects by performing a quick analysis of the data contained in the Meritor WABCO warranty and field report database. It is important to keep in mind that warranty claims are written for the sole purpose of obtaining financial reimbursement and their value in failure analysis is marginal at best. When raw, unfiltered data suggests a field issue may be occurring, an investigation is implemented. Many times, results and conclusions obtained from a detailed analysis differ significantly from the initial trends observed purely by reviewing warranty returns and field reports.

Field data and warranty reports can be successfully used by skilled and experienced engineers to spot trends in product reliability and trigger necessary follow-up actions. This skill set is available at Meritor WABCO, OEMs, other component suppliers and at NHTSA. It is not available in the general public. Supplying raw, unfiltered data to the general public will result in erroneous conclusions being drawn, possibly causing competitive harm and damaged reputations to the companies involved. Thus, Meritor WABCO strongly urges NHTSA to reconsider its position and grant confidential status to all early warning information submitted to the agency.

One other issue of concern to Meritor WABCO with the NPRM involves requirements for third party information (Section 512.9). Meritor WABCO recommends that NHTSA allow the third party to supply the requested documentation directly to the agency instead of the original submitter. Oftentimes, Meritor WABCO supplies "black box" components to our customers without all necessary documentation required for manufacture. This "proprietary" information is usually not shared with our customers as it contains internal know-how and is not necessary for the proper application of the product.

If NHTSA requires detailed information on a particular component that is not available from the original submitter, Meritor WABCO proposes the third party, or the supplier, deal directly with the agency to procure the necessary information. This will protect the confidentiality of sensitive internal information, which we require to remain competitive.

Meritor WABCO appreciates the opportunity to submit these comments on the Notice of Proposed Rulemaking for submission of confidential business information to NHTSA. Please contact us regarding any questions on the information enclosed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan Korn", written in a cursive style.

Alan Korn
Chief Engineer
Meritor WABCO Vehicle Control Systems